



1F AF

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
Re: Appeal to the Board of Patent Appeals and Interferences

Appellants	Modha et al.	)	Examiner:	Vargot, Mathieu D.
)		
Serial Number:	10/733,155	)	Group Art Unit:	1791
)		
Filed:	Dec. 11, 2003	)	Customer Number:	22827
)		
Confirmation No.:	5956	)	Deposit Account:	04-1403
)		
Title:	Method for Forming an Elastomeric Article	)	Attorney Docket No.	SSK-50 (18583)

1. ☐ **NOTICE OF APPEAL:** Pursuant to 37 CFR 41.31, Applicant hereby appeals to the Board of Appeals from the decision dated _____ of the Examiner twice/finally rejecting claims _____.
2. ☒ **BRIEF** on appeal in this application pursuant to 37 CFR 41.37 is transmitted herewith (1 copy).
3. ☐ An **ORAL HEARING** is respectfully requested under 37 CFR 41.47 (due within two months after Examiner's Answer).
4. ☐ Reply Brief under 37 CFR 41.41(b) is transmitted herewith (1 copy).
5. ☐ "Small entity" verified statement filed: [] herewith [] previously.

6. **FEE CALCULATION:**

	Fees
If box 1 above is X'd enter \$ 540.00	\$ <u>0.00</u>
If box 2 above is X'd enter \$ 540.00	\$ <u>540.00</u>
If box 3 above is X'd enter \$1,080.00	\$ <u>0.00</u>
If box 4 above is X-d enter -0- (no fee)	\$ <u>0.00</u>

PETITION is hereby made to extend the original due date of November 2, 2008, hereby made for an extension to cover the date this response is filed for which the requisite fee is enclosed (1 month \$130; 2 months \$490; 3 months \$1,110; 4 months \$1,730, 5 months \$2,350

\$ 130.00

SUBTOTAL: \$ 670.00

Less any previous extension fee paid since above original due date. - \$ 0.00

Less any previous fee paid for prior Notice of Appeal since Board did not render a decision on the merits. MPEP § 1204.01 - \$ 0.00

Less any previous fee paid for submitting Brief on prior Appeal since Board did not render a decision on the merits. MPEP § 1204.01 - \$ 0.00

If "small entity" verified statement filed ☐ previously,
☐ herewith, enter one-half (½) of subtotal and subtract

\$ 0.00

TOTAL FEE ENCLOSED: \$ 670.00

- ☐ Fee enclosed.
- ☐ Charge fee to our Deposit Account/Order Nos. in the heading hereof (for which purpose one additional copy of this sheet is attached)
- ☒ Charge to credit card (attach Credit Card Payment Form – PTO 2038)
- ☐ Fee NOT required since paid in prior appeal in which the Board of Appeals did not render a decision on the merits.


The Commissioner is hereby authorized to charge any fee specifically authorized hereafter, or any fees in addition to the fee(s) filed, or asserted to be filed, or which should have been filed herewith or concerning any paper filed hereafter, and which may be required under Rules 16-18 (deficiency only) now or hereafter relative to this application and the resulting official document under Rule 20, or credit any overpayment, to our Account No. shown in the heading hereof. This statement does not authorize charge of the issue fee in this case.

DORITY & MANNING ATTORNEYS AT LAW, P.A.

ADDRESS:

Post Office Box 1449
Greenville, SC 29602 USA
Customer ID No.: 22827
Telephone: (864) 271-1592
Facsimile: (864) 233-7342

By: Alan R. Marshall Reg. No: 56,405

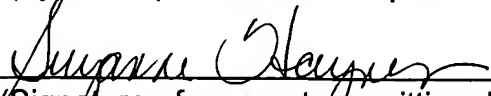
Signature: 

Date: December 2, 2008

I hereby certify that this correspondence and all attachments and any fee(s) are being deposited with the United States Postal Service as first class mail in an envelope addressed to Commissioner for Patents, Post Office Box 1450, Alexandria, Virginia 22313-1450 on December 2, 2008.

Suzanne Haynes

(Typed or printed name of person transmitting documents)


(Signature of person transmitting documents)



PATENT
ATTORNEY DOCKET NO: SSK-50 (18583)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appellants:	Modha et al.)		
		)	Examiner:	Vargot, Mathieu D.
Application No.:	10/733,155)		
		)	Group Art Unit:	1791
Filed:	Dec. 11, 2003)		
		)	Customer No.:	22827
Confirmation No.:	5956)		
		)	Deposit Account:	04-1403
Title:	"Method for Forming an)		
	Elastomeric Article")		

BRIEF ON APPEAL

U.S. Patent and Trademark Office
Post Office Box 1450
Alexandria, VA 22313-1450

Dear Honorable Commissioner:

Appellants submit the following brief on appeal in accordance with 37
C.F.R. § 41.37, and request that the Board of Patent Appeals and Interferences
reverse the Examiner's rejections.

STATEMENT OF REAL PARTY IN INTEREST

The assignee of record, Kimberly-Clark Worldwide, Inc., is the real party in
interest in this matter.

STATEMENT OF RELATED CASES

There are no other appeals or interferences known to any inventors, any attorneys or agents who prepared or prosecuted the application on appeal and any other person who was substantively involved in the preparation or prosecution of the application on appeal which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

JURISDICTIONAL STATEMENT

The Board has jurisdiction under 35 U.S.C. § 134(a). The Examiner mailed a final rejection on May 28, 2008, setting a three month shortened statutory period for response. The time for responding to the final rejection expired on August 28, 2008. 37 C.F.R. 1.134. A notice of appeal was mailed first class on August 28, 2008 via U.S. Postal Service. The notice of appeal was received by the Patent and Trademark Office on September 2, 2008. The time for filing an appeal brief is two months after the filing of a notice of appeal. 37 C.F.R. 41.37(c). The time for filing an appeal brief expired on November 2, 2008. This appeal brief and a request for an one-month extension of time is being filed on December 2, 2008.

TABLE OF CONTENTS

STATEMENT OF REAL PARTY IN INTEREST	1
STATEMENT OF RELATED CASES	2
JURISDICTIONAL STATEMENT.....	2
TABLE OF CONTENTS	3
TABLE OF AUTHORITIES.....	5
STATUS OF AMENDMENTS	6
GROUND OF REJECTION TO BE REVIEWED.....	6
I. The Final Office Action rejected claims 77-84, 88-91, 94-102, 106-109, and 112-115 under 35 U.S.C. §103(a) in view of International Publication No. WO 02/32475 to Teoh, et al. in combination with U.S. Patent No. 5,284,607 to Chen and in further view of U.S. Patent No. 3,740,262 to Agostinelli.....	6
II. The Final Office Action rejected claims 85-87 and 103-105 under 35 U.S.C. §103(a) in view of Teoh, et al. in combination with Chen, Agostinelli, and U.S. Publication No. 2003/0100694 to Holguin.....	6
STATEMENT OF FACTS.....	6
ARGUMENT	10
I. Claims 77-84, 88-91, 94-102, 106-109 are patentable under 35 U.S.C § 103 over Teoh, et al. in combination with Chen and Agostinelli.....	10
A. Teoh, et al. teaches away from the invention claimed in independent claims 77 and 98 of the present application.....	12
B. Independent claims 77 and 98 are non-obvious because one of ordinary skill in the art would not have modified Teoh, et al. with the teachings of Chen as attempted by the Office Action.....	13
C. Chen actually teaches away from the modification attempted by the Examiner.....	14

D. Independent claims 77 and 98 are non-obvious because one of ordinary skill in the art would not have modified Teoh, et al. with the teachings of Agostinelli as attempted by the Office Action.	15
E. Even if combined, the combination fails to teach all of the limitations of independent claims 77 and 98.....	17
II. Claims 85-87 and 103-105 are non-obvious over the Teoh, et al. in combination with Chen, Agostinelli, and Holguin.	18
APPENDIX	20
A. Claims Section.....	20
B. Claim Support and Drawing Analysis Section	27
C. Means or Step Plus Function Analysis Section	31
D. Evidence Section.....	31
E. Related Cases Section	31

TABLE OF AUTHORITIES

Cases

Graham v John Deere Co., 383 U.S. 1 (1966)	11
In re Fine, 837 F.2d 1071 (Fed. Cir. 1988)	11
In re Geisler, 116 F.3d 1465 (Fed. Cir. 1997).....	12
In re Grasselli, 713 F.2d 731 (Fed. Cir. 1983)	14
In re Gurley, 27 F.3d 551 (Fed. Cir. 1994)	12
In re Haruna, 249 F.3d 1327 (Fed. Cir. 2001).....	12
In re Kahn, 441 F.3d 977 (Fed. Cir. 2006).....	11
In re Oetiker, 977 F.2d 1443 (Fed. Cir. 1992)	11
In re Regel, 188 U.S.P.Q. 132 (C.C.P.A. 1975).....	12
KSR Int’l Co. v. Teleflex Inc., 127 S. Ct. 1727 (2007)	11
W.L. Gore & Associates v Garlock, Inc., 721 F.2d 1540 (Fed. Cir. 1983)	12

Statutes

35 U.S.C. § 103	11
35 U.S.C. § 134(a).....	2

Other Authorities

37 C.F.R. 41.37(c)	2
M.P.E.P. 8th Ed., Rev. 2, §2141.02	13
W.L. Gore & Associates v Garlock, Inc., 721 F.2d 1540 (Fed. Cir. 1983).	13

STATUS OF AMENDMENTS

No amendment or response was filed after the Final Office Action of May 28, 2008.

GROUND OF REJECTION TO BE REVIEWED

- I. The Final Office Action rejected claims 77-84, 88-91, 94-102, 106-109, and 112-115 under 35 U.S.C. §103(a) in view of International Publication No. WO 02/32475 to Teoh, et al. in combination with U.S. Patent No. 5,284,607 to Chen and in further view of U.S. Patent No. 3,740,262 to Agostinelli.
- II. The Final Office Action rejected claims 85-87 and 103-105 under 35 U.S.C. §103(a) in view of Teoh, et al. in combination with Chen, Agostinelli, and U.S. Publication No. 2003/0100694 to Holguin.

STATEMENT OF FACTS

1. The Examiner finally rejected claims 77-84, 88-91, 94-102, 106-109, and 112-115 as being obvious in view of Teoh, et al. in combination with Chen and Agostinelli. (Final Office Action, May 28, 2008).
2. Teoh, et al. is directed to a neoprene article that is formed by dipping a former into a neoprene or neoprene copolymer latex. (Pg. 1, 1st paragraph).
3. Teoh, et al. describes a “prior” multi-dipping process typically involves (i) dipping a former into a surfactant slurry, powder, and silicone; (ii) curing; (iii) stripping and inverting the glove; and (iv) chlorinating. (Pg. 1, last line – pg. 2, line 4).

4. Teoh, et al. notes that this conventional multi-dipping process is “complicated” and “time-consuming.” (Pg. 2, lines 6-12).
5. Teoh, et al. discloses that chlorination of the glove is a “serious disadvantage” which is both expensive and can potentially have deleterious effects on the properties of the finished glove. (Pg. 2, lines 6-12).
6. The invention of Teoh, et al. is said to avoid these significant disadvantages without resorting to the conventional method of chlorination. (*See e.g.*, pg. 3, lines 6-11).
7. In order to overcome the problems associated with chlorination of the glove, Teoh, et al. is first primed then dipped into a solution of a hydrogel-forming polymer. (Pg. 3, lines 6-11 and 24-25).
8. In one embodiment, the neoprene latex-coated former is primed by dipping into dilute acid, rinsed and dried. (Pg. 6, lines 8-12).
9. The former is then dipped into a hydrogel latex. (Pg. 6, lines 12-16)
10. This hydrogel-forming polymer is used “instead” of chlorinating the glove. (Pg. 6, lines 12-16).
11. A surfactant material may then be applied to the article by tumbling in a solution. (Pg. 6, lines 20-22).
12. Certain types of anionic anti-tack agents are employed to reduce the tack of the article. (Pg. 3, lines 12-17 and pg. 4, line 1 – pg. 5, line 26).

13. As correctly noted by the Examiner, however, Teoh, et al. fails to disclose certain aspects of the present claims. (Final Office Action, May 28, 2008).
14. For instance, Teoh, et al. fails to disclose the application of a lubricant coating containing a silicone emulsion to the outer surface of the substrate body while the inner surface of the substrate body remains adjacent to the hand-shaped former.
15. Additionally, Teoh, et al. fails to teach chlorination of the glove while the glove is still on the former.
16. In order to overcome the deficiencies of Teoh, et al., the Office Action cites to Chen and Agostinelli. (Final Office Action, May 28, 2008).
17. Chen is directed to a process for making a powder-free glove that includes (i) dipping a former into a coagulant; (ii) dipping the former into an elastomer; (iii) dipping the former into an antiblocking composition; (iv) curing; and (v) dipping the former into a silicone emulsion. (Col. 3, lines 4-5, 12-13, 16-17; col. 3, line 67 – col. 4, line 2; and col. 4, lines 6-8).
18. Once formed, the glove is then removed and inverted so that the first layer is on the outside of the glove. (Col. 4, lines 11-13).
19. The glove is then treated with an acid to dissolve the acid-soluble powder, treated with a bleach (i.e., chlorinated), treated with a second silicone emulsion, and dried. (Col. 4, lines 13-14, 35-39, 46-50 and 53-55).

20. The Examiner asserts that it would have been obvious to use the silicone emulsion dip-coating step of Chen in Teoh, et al. because “maintaining the form on the former would provide an easy and uniform method of coating a lubricant onto a glove, and would also provide improved donnability.” (Final Office Action, May 28, 2008).
21. Applicants disagree.
22. Even if Teoh, et al. and Chen are combined as attempted by the Office Action, the combination still fails to disclose chlorination of the glove while the glove is still on the former.
23. The Office Action cites to Agostinelli for the disclosure of chlorinating a glove while it is still on the former prior to stripping. (Final Office Action, May 28, 2008).
24. Agostinelli teaches a method for manufacturing a latex article (e.g., a latex surgeon’s glove).
25. The article has a powder attracting surface (the inside, donning surface) and a powder rejecting surface (the outside surface). (Col. 1, lines 14-16.)
26. The method of Agostinelli includes (1) dipping the former in a coagulant of natural rubber, (2) dipping the former in a rubber latex solution, (3) drying, (4) halogenating. (Col. 2, lines 29-42.)

27. After halogenation, the glove is stripped from the former while a lubricating or dusting powder is applied to the glove. (Col. 3, lines 2-5).
28. When the glove is stripped, it is turned outside in. (Col. 3, line 8.)
29. After the stripping operation, the glove is reversed to its normal position and tumbled to remove the lubricating powder from the outside thereof. (Col. 3, lines 9-11.)
30. As a result of this process, the powder side is the inner, donning layer of the glove, while the halogenated side is the outer surface. (Col. 2, lines 65-71).
31. Thus, Agostinelli teaches halogenation of the outer surface of the glove – not the inner, donning surface. (Col. 2, lines 65-71).

ARGUMENT

Appellants respectfully submit that the Examiner's rejections are improper and that the presently pending claims are patentable over the cited references.

I. Claims 77-84, 88-91, 94-102, 106-109 are patentable under 35 U.S.C § 103 over Toeh, et al. in combination with Chen and Agostinelli.

The Examiner finally rejected claims 77-84, 88-91, 94-102, 106-109 as being obvious in view of Toeh, et al. in combination with Chen and Agostinelli, et al. (Final Office Action, May 28, 2008). Appellants disagree and previously set

forth the reasons that claims 77-84, 88-91, 94-102, 106-109 are not obvious in view of the cited references. (Response of Feb. 19, 2008).

In rejecting claims under 35 U.S.C. § 103, it is incumbent upon the Examiner to establish a factual basis to support the legal conclusion of obviousness. See *In re Fine*, 837 F.2d 1071, 1073, 5 USPQ2d 1596, 1598 (Fed. Cir. 1988). In so doing, the Examiner must make the factual determinations set forth in *Graham v John Deere Co.*, 383 U.S. 1, 17, 148 USPQ 459, 467 (1966). “[T]he examiner bears the initial burden, on review of the prior art or on any other ground, of presenting a prima facie case of unpatentability.” *In re Oetiker*, 977 F.2d 1443, 1445, 24 USPQ2d 1443, 1444 (Fed. Cir. 1992). Furthermore, “‘there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness’... [H]owever, the analysis need not seek out precise teachings directed to the specific subject matter of the challenged claim, for a court can take account of the inferences and creative steps that a person of ordinary skill in the art would employ.” *KSR Int’l Co. v. Teleflex Inc.*, 127 S. Ct. 1727, 82 USPQ2d 1385, 1396 (2007) (quoting *In re Kahn*, 441 F.3d 977, 988, 78 USPQ2d 1329, 1336 (Fed. Cir. 2006)). Accordingly, even if all elements of a claim are disclosed in various prior art references, the claimed invention taken as a whole cannot be said to be obvious without some reason given in the prior art why one of ordinary skill would have been prompted to modify the teachings of the

references to arrive at the claimed invention. See e.g., *In re Regel*, 188 U.S.P.Q. 132 (C.C.P.A. 1975).

A. Teoh, et al. teaches away from the invention claimed in independent claims 77 and 98 of the present application.

Teoh, et al. expressly teaches away from the methods of the presently pending independent claims 77 and 98. The Federal Circuit has several times expressly addressed the issue of how to evaluate an alleged case of prima facie obviousness to determine whether it has been properly made. For instance, “a prima facie case of obviousness can be rebutted if the applicant can show that the art in any material respect taught away from the claimed invention.” *In re Haruna*, 249 F.3d 1327,1335 (Fed. Cir. 2001), citing *In re Geisler*, 116 F.3d 1465, 1469 (Fed. Cir. 1997).

A reference may be said to teach away when a person of ordinary skill, upon reading the reference, would be discouraged from following the path set out in the reference, or would be led in a direction divergent from the path that was taken by the applicant. *In re Gurley*, 27 F.3d 551, 553 (Fed. Cir. 1994). Furthermore, a “prior art reference must be considered in its entirety, ie., as a whole, including portions that would lead away from the claimed invention.” M.P.E.P. 8th Ed., Rev. 2, §2141.02, citing *W.L. Gore & Associates v Garlock, Inc.*, 721 F.2d 1540 (Fed. Cir. 1983).

As set forth above, Teoh, et al. discloses that chlorination of the glove is a “serious disadvantage” which is both expensive and can potentially have deleterious effects on the properties of the finished glove. (Facts 4 and 5). In order to overcome the problems associated with chlorination of the glove, Teoh, et al. is primed and then dipped into a solution of a hydrogel-forming polymer. (Facts 6-7). This hydrogel-forming polymer is used “instead” of chlorinating the glove. (Fact 10).

The disclosure that these steps are mutually exclusive would not lead one of ordinary skill in the art to chlorinate the glove of Teoh, et al. coated with the hydrogel-forming polymer, especially since the desired tack is already achieved without chlorination. Thus, Applicants respectfully submit that it would not be obvious to one of ordinary skill in the art to chlorinate the glove of Teoh, et al. – no matter the order – upon consideration of Teoh, et al.’s teachings.

B. Independent claims 77 and 98 are non-obvious because one of ordinary skill in the art would not have modified Teoh, et al. with the teachings of Chen as attempted by the Office Action.

In any event, the Office Action first cites to Chen in an attempt to overcome the deficiencies of Teoh, et al. The Examiner asserts that it would have been obvious to use the silicone emulsion dip-coating step of Chen in Teoh, et al. because “maintaining the form on the former would provide an easy an uniform

method of coating a lubricant onto a glove, and would also provide improved donnability.”

One of ordinary skill in the art having common sense at the time of the invention would not have made the combination proposed in the Office Action. As discussed above, Teoh, et al. expressly teaches away from chlorination of the glove. Notably, the disadvantageous process described by Teoh, et al. is similar to Chen, which also requires multiple complicated and time-consuming dipping steps, and even expressly requires chlorination.

The opposing teachings of Chen and Teoh, et al. do not end here. An essential feature of Teoh, et al. is the use of a hydrogel layer to reduce tackiness. In stark contrast, Chen expressly teaches away from elastomeric articles with such a construction, noting that they are not capable of achieving adequate donnability. (Col. 1, ll. 47-54). Thus, Teoh, et al. and Chen expressly teach away from each other. Applicants note that it is improper to combine references where the references teach away from their combination. In re Grasselli, 713 F.2d 731, 743, 218 USPQ 769, 779 (Fed. Cir. 1983). For at least this reason, no rational would have existed for one of ordinary skill in the art having common sense to combine the references in the manner proposed in the Office Action.

C. Chen actually teaches away from the modification attempted by the Examiner.

Even if one were to ignore the vast differences between Teoh, et al. and Chen, however, no rational would have existed for modifying Teoh, et al. as suggested in the Office Action. Although Chen does include a step in which a silicone emulsion is dip-coated onto a glove layer, Chen itself teaches away from the use of this step. Namely, because subsequent processing may remove the silicone from the glove surface, Chen requires a second silicone treatment process after the glove is stripped. (Col. 4, ll. 45-54). In light of the above, one of ordinary skill in the art would simply not have selectively chosen the “pre-stripping” silicone dip-coating step for combination with Teoh, et al. as Chen itself indicates that the silicone applied in this step may be subsequently removed. If anything, one of ordinary skill in the art would have instead chosen the “post-stripping” silicone application step, as already described in Teoh, et al.

D. Independent claims 77 and 98 are non-obvious because one of ordinary skill in the art would not have modified Teoh, et al. with the teachings of Agostinelli as attempted by the Office Action.

For arguments sake, if Teoh, et al. and Chen are combined as attempted by the Office Action, the combination still fails to teach or even suggest all of the limitations of independent claims 77 and 98. Specifically, neither cited reference discloses chlorination of the glove while the glove is still on the former. The Office Action cites to Agostinelli for the disclosure of chlorinating a glove while it is still on the former prior to stripping.

The result of the process of Agostinelli is that the powder side is the inner, donning layer of the glove, while the halogenated side is the outer surface. Thus, the combination Agostinelli to the cited references, even if made absent any rational to do so, would result in the halogenation of the outer surface of the glove – not the inner, donning surface as required by independent claims 77 and 98. The combination, thus, simply does not provide any teaching of the halogenation of the inner, donning surface while the glove is still on the former, as required by independent claims 77 and 98.

Applicants respectfully submit that one of ordinary skill in the art, having common sense at the time of the invention, would not have utilized the halogenating step of Agostinelli to halogenate the inner, donning layer of a glove. Agostinelli discloses that the halogenation of the glove is useful on the outer surface to reduce the affinity of the outer surface for the lubricating powder. Halogenating the inner surface of the glove disclosed by Agostinelli would effectively destroy its intended purpose. Specifically, the lubricating powder would not stick to the inner surface of the glove, preventing its usefulness as disclosed by Agostinelli.

Agostinelli is directed to the use of powdered gloves, which are precisely the gloves that both Teoh, et al. and Chen are intended to avoid. As such, one of

ordinary skill in the art would not have looked to any disclosure of Agostinelli when looking to modify Teoh, et al. and/or Chen.

Furthermore, as explained above, Teoh, et al. teaches away from chlorination in any step. Likewise, Chen teaches away from chlorination prior to stripping from the former. Chen describes a “conventional” multi-dipping process that involves (i) dipping a former into a coagulant; (ii) dipping into an elastomer; (iii) dip-coating the antiblocking particles; (iv) curing; (v) stripping and inverting the glove; and (iv) chlorinating. Thus, Chen expressly teaches chlorination only after stripping of the glove from the former. This conventional process is precisely the type of process that the presently claimed method avoids.

As such, Applicants respectfully submit that *prima facie* obviousness has not been established, and request withdrawal of the obviousness rejection.

Furthermore, Applicants submit that claims 77 and 98 are patentable over the cited references, either alone or in any combination.

E. Even if combined, the combination fails to teach all of the limitations of independent claims 77 and 98.

Nevertheless, even if somehow combined, the references would still fail to disclose each limitation of independent claims 77 and 98. That is, claims 77 and 98 require that the lubricant coating is applied to the “hydrogel-coated substrate body.” In this manner, the hydrogel coating may block the surface of a tacky substrate body and prevent it from sticking to itself, while the lubricant coating

may aid in damp donning. (*See e.g.*, Appl. p. 5). Such a method is not taught anywhere in the cited references. Thus, for at least the reasons set forth, Applicants respectfully submit that independent claims 77 and 98 patentably define over any combination of Teoh, et al., Chen, and Agostinelli.

Applicants respectfully submit that one of ordinary skill in the art would not have made either of the above attempted modifications. Thus, the Examiner erred in rejecting claims 77-84, 88-91, 94-102, 106-109.

II. Claims 85-87 and 103-105 are non-obvious over the Teoh, et al. in combination with Chen, Agostinelli, and Holguin.

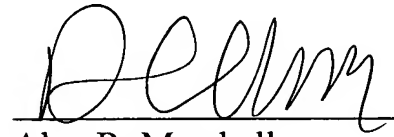
Applicants also respectfully submit that for at least the reasons indicated above relating to corresponding independent claims, the pending dependent claims patentably define over the references cited. However, Applicants also note that the patentability of the dependent claims certainly does not hinge on the patentability of the independent claims. In particular, it is believed that some or all of these claims may possess features that are independently patentable, regardless of the patentability of the independent claim.

For the reasons stated above, it is Appellants' position that the Examiner's rejection of claims has been shown to be untenable and should be **reversed** by the Board.

Please charge any additional fees required by this Appeal Brief to Deposit Account No. 04-1403.

Respectfully requested,

DORITY & MANNING, P.A.

A handwritten signature in black ink, appearing to read "Dellmy", written over a horizontal line.

Alan R. Marshall

Registration No. 56,405

12/2/08

Date

P.O. Box 1449

Greenville, SC 29602-1449

Telephone: (864) 271-1592

Facsimile: (864) 233-7342

APPENDIX

A. Claims Section

1-76. (Canceled)

77. (Rejected) A method for forming an elastomeric glove, the method comprising:

dipping a hand-shaped former into at least one bath containing an elastomeric material to form a substrate body, the substrate body having an inner surface and an outer surface that define a hand-shaped cavity, the inner surface being positioned adjacent to the hand-shaped former;

applying a hydrogel coating to the outer surface of the substrate body while the inner surface of the substrate body remains adjacent to the hand-shaped former, wherein the hydrogel coating has a thickness of from about 0.1 to about 20 micrometers;

applying a lubricant coating to the hydrogel-coated substrate body while the inner surface of the substrate body remains adjacent to the hand-shaped former, wherein the lubricant coating comprises a silicone emulsion;

chlorinating the glove; and

thereafter, stripping the glove from the hand-shaped former without the use of an antiblocking powder, wherein the glove is inverted so that the outer surface

of the substrate body applied with the hydrogel coating is configured to face a user's hand when inserted into the hand-shaped cavity.

78. (Rejected) The method of claim 77, wherein the elastomeric material of the substrate body includes an emulsion-based elastomeric material.

79. (Rejected) The method of claim 78, wherein the emulsion-based elastomeric material includes a natural rubber latex, isoprene polymer, chloroprene polymer, vinyl chloride polymer, butadiene polymer, styrene-butadiene polymer, carboxylated styrene-butadiene polymer, acrylonitrile-butadiene polymer, carboxylated acrylonitrile-butadiene polymer, acrylonitrile-styrene-butadiene polymer, carboxylated acrylonitrile-styrene-butadiene polymer, derivative thereof, or combination thereof.

80. (Rejected) The method of claim 77, wherein the elastomeric material of the substrate body includes natural rubber latex.

81. (Rejected) The method of claim 77, wherein the hydrogel coating is formed by crosslinking a hydrogel-forming polymer to form a substantially water-insoluble hydrogel network.

82. (Rejected) The method of claim 81, wherein the hydrogel-forming polymer is formed from at least one monomer that is hydrophilic and water-soluble.

83. (Rejected) The method of claim 82, wherein the monomer is a vinyl pyrrolidone, hydroxyethyl acrylate, hydroxyethyl methacrylate, hydroxypropyl acrylate, hydroxypropyl methacrylate, acrylic acid, methacrylic acid, acrylic ester, methacrylic ester, vinyl pyridine, acrylamide, vinyl alcohol, ethylene oxide, derivative thereof, or combination thereof.

84. (Rejected) The method of claim 82, wherein the monomer is a hydroxyethyl acrylate, hydroxyethyl methacrylate, hydroxypropyl acrylate, derivative thereof, or combination thereof.

85. (Rejected) The method of claim 77, wherein the hydrogel coating further contains an active agent capable of imparting a benefit to a user.

86. (Rejected) The method of claim 85, wherein the active agent is a drug, a skin-conditioner, a botanical agent, or combination thereof.

87. (Rejected) The method of claim 85, wherein the active agent is releasable from the hydrogel coating when the coating is contacted with an aqueous environment.

88. (Rejected) The method of claim 77, wherein the solids content of the silicone emulsion is from about 0.1 wt.% to about 10 wt.%.

89. (Rejected) The method of claim 77, wherein the solids content of the silicone emulsion is from about 0.25 wt.% to about 5 wt.%.

90. (Rejected) The method of claim 77, wherein the solids content of the silicone emulsion is from about 0.3 wt.% to about 1 wt.%.

91. (Rejected) The method of claim 77, wherein the lubricant coating contains a surfactant.

92-93. (Canceled)

94. (Rejected) The method of claim 77, wherein the lubricant coating has a thickness of from about 0.001 millimeters to about 0.4 millimeters.

95. (Rejected) The method of claim 77, wherein the lubricant coating has a thickness of from about 0.01 millimeters to about 0.20 millimeters.

96. (Rejected) The method of claim 77, wherein the hydrogel coating is applied by dipping the hand-shaped former into a hydrogel-forming polymer.

97. (Rejected) The method of claim 77, wherein the lubricant coating is applied by dipping the hand-shaped former into the silicone emulsion.

98. (Rejected) A method for forming an elastomeric glove, the method comprising:

dipping a hand-shaped former into at least one bath containing an elastomeric material to form a substrate body, wherein the elastomeric material comprises natural rubber latex, the substrate body having an inner surface and an outer surface that define a hand-shaped cavity, the inner surface being positioned adjacent to the hand-shaped former;

applying a hydrogel coating to the outer surface of the substrate body while the inner surface of the substrate body remains adjacent to the hand-shaped former, wherein the hydrogel coating has a thickness of from about 0.1 to about 20 micrometers;

applying a lubricant coating to the hydrogel-coated substrate body while the inner surface of the substrate body remains adjacent to the hand-shaped former, wherein the lubricant coating comprises a silicone emulsion;

chlorinating the glove; and

thereafter, stripping the glove from the hand-shaped former without the use of an antiblocking powder, wherein the glove is inverted so that the outer surface of the substrate body applied with the hydrogel coating is configured to face a user's hand when inserted into the hand-shaped cavity.

99. (Rejected) The method of claim 98, wherein the hydrogel coating is formed by crosslinking a hydrogel-forming polymer to form a substantially water-insoluble hydrogel network.

100. (Rejected) The method of claim 99, wherein the hydrogel-forming polymer is formed from at least one monomer that is hydrophilic and water-soluble.

101. (Rejected) The method of claim 100, wherein the monomer is a vinyl pyrrolidone, hydroxyethyl acrylate, hydroxyethyl methacrylate, hydroxypropyl

acrylate, hydroxypropyl methacrylate, acrylic acid, methacrylic acid, acrylic ester, methacrylic ester, vinyl pyridine, acrylamide, vinyl alcohol, ethylene oxide, derivative thereof, or combination thereof.

102. (Rejected) The method of claim 100, wherein the monomer is a hydroxyethyl acrylate, hydroxyethyl methacrylate, hydroxypropyl acrylate, derivative thereof, or combination thereof.

103. (Rejected) The method of claim 98, wherein the hydrogel coating further contains an active agent capable of imparting a benefit to a user.

104. (Rejected) The method of claim 103, wherein the active agent is a drug, a skin-conditioner, a botanical agent, or combination thereof.

105. (Rejected) The method of claim 103, wherein the active agent is releasable from the hydrogel coating when the coating is contacted with an aqueous environment.

106. (Rejected) The method of claim 98, wherein the solids content of the silicone emulsion is from about 0.1 wt.% to about 10 wt.%.

107. (Rejected) The method of claim 98, wherein the solids content of the silicone emulsion is from about 0.25 wt.% to about 5 wt.%.

108. (Rejected) The method of claim 98, wherein the solids content of the silicone emulsion is from about 0.3 wt.% to about 1 wt.%.

109. (Rejected) The method of claim 98, wherein the lubricant coating contains a surfactant.

110-111. (Canceled)

112. (Rejected) The method of claim 98, wherein the lubricant coating has a thickness of from about 0.001 millimeters to about 0.4 millimeters.

113. (Rejected) The method of claim 98, wherein the lubricant coating has a thickness of from about 0.01 millimeters to about 0.20 millimeters.

114. (Rejected) The method of claim 98, wherein the hydrogel coating is applied by dipping the hand-shaped former into a hydrogel-forming polymer.

115. (Rejected) The method of claim 98, wherein the lubricant coating is applied by dipping the hand-shaped former into the silicone emulsion.

B. Claim Support and Drawing Analysis Section

The following claim support and drawing analysis is provided as required by 37 C.F.R. 41.37(r) but is not intended to be an exhaustive listing.

77. A method for forming an elastomeric glove **{Figs. 1-2, element 20; pg. 2, lines 5-6 and 19-20; pg. 3, line 1; pg. 4, lines 18-21}**, the method comprising:

dipping a hand-shaped former into at least one bath containing an elastomeric material to form a substrate body **{Fig. 2, element 24; pg. 2, lines 7-8 and 21-22; pg. 3, lines 2-3; pg. 15, lines 9-27}**, the substrate body having an inner surface and an outer surface that define a hand-shaped cavity **{pg. 2, lines 8-9 and 23-25; pg. 3, lines 3-4; pg. 4, lines 19-21}**, the inner surface being positioned adjacent to the hand-shaped former **{pg. 2, lines 2-10 and 24-25; pg. 3, lines 4-5}**;

applying a hydrogel coating to the outer surface of the substrate body while the inner surface of the substrate body remains adjacent to the hand-shaped former **{Fig. 2, element 26; pg. 2, lines 11-13 and 26-28; pg. 3, lines 6-8; pg. 4, lines 8-12; pg. 5, line 11 – pg. 8, line 11; pg. 12, lines 10-12; pg. 15, line 28 – pg. 16, line 23}**, wherein the hydrogel coating has a thickness of from about 0.1 to about 20 micrometers **{pg. 2, lines 13-14; pg. 12, lines 12-16}**;

applying a lubricant coating to the hydrogel-coated substrate body while the inner surface of the substrate body remains adjacent to the hand-shaped former **{Fig. 2, element 32; pg. 2, lines 26-28; pg. 3, lines 6-8; pg. 12, lines 21-30; pg. 17, lines 9-24}**, wherein the lubricant coating comprises a silicone emulsion **{pg. 12, line 30 – pg. 14, line 11}**;

chlorinating the glove **{pg. 4, lines 12-17; pg. 17, line 25 – pg. 18, line 7}**;
and

thereafter, stripping the glove from the hand-shaped former without the use of an antiblocking powder **{pg. 2, lines 15-16 and 29-30; pg. 3, lines 12-13; pg. 18, lines 9-10}**, wherein the glove is inverted so that the outer surface of the substrate body applied with the hydrogel coating is configured to face a user's hand when inserted into the hand-shaped cavity **{pg. 2, lines 16-18 and 30-32; pg. 3, lines 13-15; pg. 18, lines 10-12}**.

98. A method for forming an elastomeric glove **{Figs. 1-2, element 20; pg. 2, lines 5-6 and 19-20; pg. 3, line 1; pg. 4, lines 18-21}**, the method comprising:

dipping a hand-shaped former into at least one bath containing an elastomeric material to form a substrate body **{Fig. 2, element 24; pg. 2, lines 7-8 and 21-22; pg. 3, lines 2-3; pg. 15, lines 9-27}**, wherein the elastomeric material

comprises natural rubber latex **{pg. 15, lines 9-12}**, the substrate body having an inner surface and an outer surface that define a hand-shaped cavity **{pg. 2, lines 8-9 and 23-25; pg. 3, lines 3-4; pg. 4, lines 19-21}**, the inner surface being positioned adjacent to the hand-shaped former **{pg. 2, lines 2-10 and 24-25; pg. 3, lines 4-5}**;

applying a hydrogel coating to the outer surface of the substrate body while the inner surface of the substrate body remains adjacent to the hand-shaped former **{Fig. 2, element 26; pg. 2, lines 11-13 and 26-28; pg. 3, lines 6-8; pg. 4, lines 8-12; pg. 5, line 11 – pg. 8, line 11; pg. 12, lines 10-12; pg. 15, line 28 – pg. 16, line 23}**, wherein the hydrogel coating has a thickness of from about 0.1 to about 20 micrometers **{pg. 2, lines 13-14; pg. 12, lines 12-16}**;

applying a lubricant coating to the hydrogel-coated substrate body while the inner surface of the substrate body remains adjacent to the hand-shaped former **{Fig. 2, element 32; pg. 2, lines 26-28; pg. 3, lines 6-8; pg. 12, lines 21-30; pg. 17, lines 9-24}**, wherein the lubricant coating comprises a silicone emulsion **{pg. 12, line 30 – pg. 14, line 11}**;

chlorinating the glove **{pg. 4, lines 12-17; pg. 17, line 25 – pg. 18, line 7}**;
and

thereafter, stripping the glove from the hand-shaped former without the use of an antiblocking powder **{pg. 2, lines 15-16 and 29-30; pg. 3, lines 12-13; pg.**

18, lines 9-10}, wherein the glove is inverted so that the outer surface of the substrate body applied with the hydrogel coating is configured to face a user's hand when inserted into the hand-shaped cavity **{pg. 2, lines 16-18 and 30-32; pg. 3, lines 13-15; pg. 18, lines 10-12}**.

C. Means or Step Plus Function Analysis Section

Not applicable to the issues in this appeal.

D. Evidence Section

None

E. Related Cases Section

None